

**Office of
The City Attorney
City of San Diego**

**MEMORANDUM
MS 59**

(619) 236-6220

DATE: September 22, 2005
TO: City Council Transition Committee
FROM: City Attorney
SUBJECT: Draft Ordinances Related to the Transition to a Council-Mayor Form of Government

Attached are two draft ordinances for discussion at the City Council Transition Committee meeting scheduled for September 28, 2005. The draft ordinances relate to the Charter amendments approved by the voters at a municipal election held on November 2, 2004, which changes the City's current Council-Manager form of government to a Council-Mayor form of government on a five-year trial basis beginning January 1, 2006. The following is a brief summary of the draft ordinances.

Office of the Independent Budget Analyst

The first ordinance establishes the Office of Independent Budget Analyst. Article XV, section 270(f) of the Charter provides that the City Council shall have the right to establish an Office of Independent Budget Analyst and to determine the powers of the Office and its manager. The draft ordinance implements the Committee's direction and desire to establish this Office. The ordinance includes a description of the duties of the Office and provides that, in addition to budgetary and financial analysis, the Office will provide legislative and policy analysis.


Global Change in the San Diego Municipal Code from City Manager to Mayor

The second ordinance implements the transfer of powers and duties of the City Manager to the Mayor. Article XV, section 260(b) of the Charter provides that all executive authority, power, and responsibilities conferred upon the City Manager in Article V, Article VII, and Article IX shall be transferred to, assumed, and carried out by the Mayor during the period of time Article XV is operative. In order to implement the new form of government and the intent of Article XV of the Charter, it is necessary to add a provision to the San Diego Municipal Code that recognizes the Mayor's new role and transfers the rights, powers, and duties of the City Manager as set forth in the San Diego Municipal Code to the Mayor.

The Office of the City Attorney will be available to discuss the draft ordinances and answer any questions at the Committee meeting.

MICHAEL J. AGUIRRE, City Attorney

By


Catherine M. Bradley
Chief Deputy City Attorney

CMB:jb
Attachments

ORDINANCE NUMBER O-_____ (NEW SERIES)

ADOPTED ON _____

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 2,
DIVISION 18 OF THE SAN DIEGO MUNICIPAL CODE BY
AMENDING SECTION 22.1801(b) AND AMENDING
CHAPTER 2, ARTICLE 2 OF THE SAN DIEGO MUNICIPAL
CODE BY ADDING DIVISION 23 AND SECTIONS 22.2301,
22.2302, 22.2303, 22.2304, 22.2305, AND 22.2306, ALL
RELATING TO THE CREATION OF THE OFFICE OF
INDEPENDENT BUDGET ANALYST

WHEREAS, at a municipal election held on November 2, 2004, the voters of the City of San Diego approved Proposition F, thereby adding Article XV to the City Charter which changes the City's current Council-Manager form of government to a Council-Mayor form of government on a five-year trial basis beginning January 1, 2006; and

WHEREAS, Article XV, section 265(b)(15) of the Charter provides that the Mayor shall annually propose a budget for submission to and approval by the City Council; and

WHEREAS, Article XV, section 270(f) of the Charter provides that the City Council shall have the right to establish an Office of Independent Budget Analyst to be managed and controlled by an Independent Budget Analyst and to determine the powers of the Office of Independent Budget Analyst and its manager by ordinance; and

WHEREAS, the City Council now chooses to exercise the authority granted to it by the voters upon approving the new form of government, and does hereby create the Office of Independent Budget Analyst; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 2, Article 2, Division 18, Section 22.1801(b) is hereby amended to read as follows:

§ 22.1801 City Departments

- (a) [No change in text.]
- (b) The following are the departments of the City of San Diego within the meaning of the Charter and ordinances of said City:

Auditor and Comptroller

Citizens Assistance and Information

City Attorney

City Clerk

City Council — District 1

City Council — District 2

City Council — District 3

City Council — District 4

City Council — District 5

City Council — District 6

City Council — District 7

City Council — District 8

City Manager

City Retirement

City Treasurer
Development Services Department
Engineering Department
Executive Services Department
Family Justice Center Department
Financial Management
Fire
General Services
Independent Budget Analyst
Intergovernmental Relations
Library
Mayor
Neighborhood Code Compliance
Park and Recreation
Personnel
Planning
Police
Purchasing
Real Estate Assets
Risk Management
Waste Management
Water Utilities

(c) [No change in text.]

Section 2. That Chapter 2, Article 2, of the San Diego Municipal Code is amended by adding a new Division 23, and new sections 22.2301, 22.2302, 22.2303, 22.2304, 22.2305, and 22.2306, to read as follows:

Division 23: Office of Independent Budget Analyst

§ 22.2301 Office of Independent Budget Analyst

There is hereby created the Office of Independent Budget Analyst, a City department whose designated function is to assist the City Council in the conduct of budgetary inquiries and in the making of budgetary decisions.

§ 22.2302 Independent Budget Analyst

- (a) The Independent Budget Analyst is the administrative head of the department and shall be appointed by majority vote of the City Council.
- (b) The City Council may remove the Independent Budget Analyst from office by a majority vote of the members of the City Council at any time, with or without cause.
- (c) The Independent Budget Analyst shall be the appointing authority of all City personnel authorized in the department through the normal annual budget and appropriation process of the City.

§ 22.2303 Qualifications of the Independent Budget Analyst

Appointees serving as Independent Budget Analyst shall have the professional qualifications of a college degree in finance, economics, business, or other relevant field of study or a relevant professional certification. In addition, such

appointees shall have experience in the area of municipal finance or substantially similar equivalent experience.

§ 22.2304 Duties of the Independent Budget Analyst

The duties of the Independent Budget Analyst shall include:

- (a) providing a formal, comprehensive review and analysis of the Mayor's proposed annual budget;
- (b) gathering, organizing, and analyzing data and information relative to budgetary issues;
- (c) providing comparative studies of other cities as they relate to municipal finance;
- (d) engaging in fiscal forecasting and planning, including developing means of financing long-range capital improvement programs;
- (e) analyzing the City's past, current, and proposed revenues and expenditures;
- (f) reviewing existing and potential tax revenues;
- (g) analyzing federal, state, and local programs to determine sources of funding and appropriate expenditure options;
- (h) reviewing the economic effects of proposed legislation;
- (i) constructing economic models and indices as directed by the City Council;
- (j) preparing fiscal and economic project analysis as directed by the City Council;
- (k) providing policy research and analysis on proposed legislation;
- (l) preparing such other reports relating to budgetary and legislative policy

concerns as directed by the City Council.

§ 22.2305 Budget

The City Council shall appropriate a reasonable budget for the Office of Independent Budget Analyst.

§ 22.2306 Conflict of Interest Code

A conflict of interest code shall be adopted for the Independent Budget Analyst and staff of the Independent Budget Analyst, subject to City Council approval. The Independent Budget Analyst and members of the staff of the Independent Budget Analyst shall be required to complete and file statements of economic interests in accordance with the conflict of interest code.

Section 3. The City Manager is directed to take those steps required to expeditiously establish the Office of Independent Budget Analyst as an independent department, including but not limited to, the following:

- a. Assist the City Council with regard to the selection process for a Independent Budget Analyst; and
- b. Identify all staff positions to be assigned to the Office of Independent Budget Analyst and all City costs associated with the Office of Independent Budget Analyst; and
- c. Identify suitable office space for the Office of Independent Budget Analyst; and
- d. Include the Office of Independent Budget Analyst in the FY2006 Manager's mid-

year budget review.

Section 4. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 5. That this ordinance shall take effect and be in force on January 1, 2006.

Section 6. That this ordinance shall remain in effect for a period of five years (until December 31, 2010), at which time this ordinance shall be automatically repealed and removed from the Municipal Code. However, in the event that the people of the City of San Diego, at an election held prior to December of 2010, amend the City Charter to extend or make permanent the Council-Mayor form of government, and in so doing maintain the right of the City Council to appoint an Independent Budget Analyst, the provisions of this ordinance shall not be repealed but shall instead remain in full force to the same extent as allowed by the City Charter.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By

Catherine M. Bradley
Deputy City Attorney

CMB:jab
09/22/2005
Or.Dept:
O-2006-____

ORDINANCE NUMBER O-_____ (NEW SERIES)

ADOPTED ON _____

AN ORDINANCE AMENDING CHAPTER 1, ARTICLE 1,
DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY
ADDING SECTION 11.0102.5, RELATING TO THE CHANGE
IN THE MAYOR'S AUTHORITY, POWERS, AND
RESPONSIBILITIES UNDER THE COUNCIL-MAYOR TRIAL
FORM OF GOVERNANCE

WHEREAS, at a municipal election held on November 2, 2004, the voters of the City of San Diego approved Proposition F, thereby adding Article XV to the City Charter which changes the City's current Council-Manager form of government to a Council-Mayor form of government on a five-year trial basis beginning January 1, 2006; and

WHEREAS, Article XV, section 260(b) of the Charter provides that all executive authority, power, and responsibilities conferred upon the City Manager in Article V, Article VII, and Article IX shall be transferred to, assumed, and carried out by the Mayor during the period of time Article XV is operative; and

WHEREAS, in addition to the Charter, the San Diego Municipal Code describes the rights, powers, and duties of the City Manager; and

WHEREAS, in order to implement the new form of government and the intent of Article XV of the Charter, it is necessary to add a provision to the San Diego Municipal Code that recognizes the Mayor's new role and transfers the rights, powers, and duties of the City Manager as set forth in the San Diego Municipal Code to the Mayor; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 1, Article 1, Division 1, is amended by adding new section 11.0102.5, to read as follows:

§ 11.0102.5 Council-Mayor Trial Form of Governance

In order to implement the purpose and intent of Article XV of the Charter which implements a Council-Mayor trial form of governance, all references to the "City Manager" in the San Diego Municipal Code shall be deemed to refer to "Mayor." This section becomes operative on January 1, 2006, and shall remain in effect for a period of five years (until December 31, 2010), at which time this section shall be automatically repealed and removed from the San Diego Municipal Code.

Notwithstanding the foregoing, if at an election held prior to December of 2010, the Charter is amended to extend, make permanent, shorten, or repeal the effective period of Charter section XV, the provisions of this ordinance shall not be repealed but shall instead remain in full force to the same extent as allowed by the City Charter.

Section 2. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 3. That this ordinance shall take effect and be in force on January 1, 2006.

Section 4. That this ordinance shall remain in effect for a period of five years (until December 31, 2010), at which time this ordinance shall be automatically repealed and removed from the Municipal Code. However, in the event that the people of the City of San Diego, at an election held prior to December of 2010, amend the City Charter to extend or make permanent

the Council-Mayor form of government, the provisions of this ordinance shall not be repealed but shall instead remain in full force to the same extent as allowed by the City Charter.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By

Catherine M. Bradley
Deputy City Attorney

CMB:jab
09/22/2005
Or.Dept:
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